



JONES, Judge:

Plaintiff filed this action against defendant State Farm Fire and Casualty Company in Washington County Circuit Court on May 29, 2009, alleging a claim for breach of an insurance contract. On July 29, 2009, defendant removed the action to this court based on diversity jurisdiction.

The case is now before the court on plaintiff's Motion to Remand (# 25). The motion is granted and this action is remanded to Washington County Circuit Court.

#### DISCUSSION

Plaintiff's complaint does not specify the amount of damages sought. Plaintiff states that the reason for this is that when it filed the complaint, it still was investigating the claim. In the complaint, plaintiff merely alleges that defendant's breach of the insurance policy "has caused damages to be determined at trial (including the covered portion of the total estimated costs to repair the Property, loss of use and lost rents)." Complaint, ¶ 8 (emphasis added).

In its Notice of Removal, defendant speculated that plaintiff's claim exceeded the jurisdictional limit of \$75,000, based on a report entitled "Results of Building Envelope Investigation," which defendant attached to the Notice. The estimated cost to repair the defects, property damage, code violations, etc., identified in the report was \$1,852, 270.00, which defendant asserts to be at the very least the value of plaintiff's claim in this court. See Response in Opposition to Plaintiff's Motion to Remand, p. 5, and Exhibit A to the Declaration of Lloyd Bernstein.

As plaintiff notes, however, the claim at issue here is an insurance coverage claim, limited by the terms of the policy itself. Plaintiff also is pursuing claims against the original

contractors for other damages, but states unequivocally that the amount in controversy - the total claim under the insurance policy against defendant - is \$44,410.01. Declaration of Todd Peck, ¶¶ 2, 9. Consequently, this court lacks subject matter jurisdiction over this action and plaintiff's motion for remand must be granted.

Plaintiff's request for costs and attorney fees related to the motion is denied.

#### CONCLUSION

Plaintiff's Motion to Remand (# 25) is GRANTED and this action is remanded to Washington County Circuit Court. Plaintiff's request for costs and attorney fees is denied. All other pending motions are denied as moot.

DATED this 5<sup>th</sup> day of October, 2010.



---

ROBERT E. JONES  
U.S. District Judge